

In the Matter of)
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Amendment of Parts 1 and 17 of the) WT Docket No. 08-61
Commission's Rules Regarding Public)
Notice Procedures for Processing Antenna)
Structure Registration Applications)

To: The Commission

The Land Mobile Communications Council (“LMCC”), pursuant to Section 1.415 of the Federal Communication Commission (“FCC” or “Commission”) Rules and Regulations, 47 C.F.R. § 1.415, hereby respectfully submits its Comments in the above-captioned proceeding.

LMCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. LMCC acts with the consensus, and on behalf, of the vast majority of public safety, business, industrial, transportation and private commercial radio users, as well as a diversity of land mobile service providers and equipment manufacturers. Membership includes the following organizations:

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- Association of American Railroads (AAR)
- Association of Fish and Wildlife Agencies (AFWA)
- Association of Public-Safety Communications Officials-International, Inc. (APCO)
- Aviation Spectrum Resources, Inc. (ASRI)
- Central Station Alarm Association (CSAA)
- Enterprise Wireless Alliance (EWA)
- Forest Industries Telecommunications (FIT)
- Forestry-Conservation Communications Association (FCCA)
- Intelligent Transportation Society of America, Inc. (ITSA)
- International Association of Fire Chiefs (IAFC)
- International Municipal Signal Association (IMSA)
- MRFAC, Inc. (MRFAC)
- National Association of State Foresters (NASF)
- PCIA – The Wireless Infrastructure Association (PCIA)
- Telecommunications Industry Association (TIA)
- Utilities Telecom Council (UTC)

The individual members of these constituent organizations collectively represent a very significant portion of the FCC’s Part 90 licensees. Because Part 90 licensees are affected by Part 17 antenna structure registration (“ASR”) requirements, LMCC and its members have a direct interest in the instant FCC proposal to amend its Part 17 notice process¹ in order to comply with the court’s mandate.²

II. THE APCO PROPOSAL UNDERSCORES THE NEED FOR TIMELY ASR PROCESSING

APCO, a member of LMCC, submitted comments in this docket that stress the importance of quickly processing applications in any new ASR system that the Commission adopts.³ LMCC agrees with APCO that the ability to process radio communications applications in an efficient and timely manner is crucial for public

¹ See “Wireless Telecommunications Bureau Seeks Comment on Petition for Expedited Rulemaking of CTIA—The Wireless Association et al., for Amendment of Parts 1 and 17 of the Commission’s Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications,” *Public Notice*, WT Dkt. 08-61 (May 6, 2008).

² See *American Bird Conservancy, Inc., v. FCC*, 516 F.3d 1027 (D.C. Cir. 2008).

³ Comments of APCO, WT Dkt. 08-61 (May 9, 2008).

safety and other business operations that rely on those LMCC members which are FCC-certified frequency advisory committees. Public-sector, commercial providers of wireless services, and industrial users of private, internal radio systems all depend on the ability to build-out and enhance their communications networks in a rapid fashion in order to provide essential communications service.⁴ Because time is of the essence for so many applicants, LMCC also agrees with APCO's suggestion to begin the FCC ASR process concurrently with the filing for a "no hazard" determination with the Federal Aviation Administration ("FAA").⁵ Any potential inefficiencies in this process would be more than offset by the overall amount of time saved for the vast majority of applicants, allowing crucial communications systems to be deployed in a more timely manner.

III. THE FCC SHOULD USE TEMPORARY REGISTRATION NUMBERS TO ELIMINATE POTENTIAL FREQUENCY COORDINATION DISADVANTAGES

A. The Proposed Changes Could Create Frequency Licensing Problems

LMCC members are committed to fully working with the Commission to ease any transition difficulties that may occur while implementing a new ASR process. The LMCC will be proactive in alerting its members when new rules are in effect and describing the impact these rules could have. One such practical impact that the *Petition*⁶ would have is on the LMCC members' ability to process frequency

⁴ *Id.* at 2. ("State and local government public safety agencies often submit applications to the FCC for authority to build or expand radio systems used for police, fire, EMS, disaster relief, forestry, highway maintenance and other critical operations that protect the safety of life and property.").

⁵ *Id.* at 2-3.

⁶ *Petition for Expedited Rulemaking*, CTIA—The Wireless Association®, National Association of Broadcasters, National Association of Tower Erectors, PCIA—The Wireless Infrastructure Association, WT Dkt. 08-61 (May 2, 2008) ("*Petition*").

coordination applications through the Commission's Universal Licensing System ("ULS"). As the FCC has noted, "[t]he Antenna Structure Registration procedures set forth in Part 17 are distinct from the FCC's licensing functions. The registration of an antenna structure that affects air navigation is a precondition to FCC licensing of radio facilities at a particular site."⁷ Only after the registration precondition is satisfied will the Commission grant the applicant a registration number necessary for ULS processing. Because frequency coordination is currently not possible without an FCC registration number, any changes to the current ASR system that may cause delays in ASR approvals would necessarily delay the ability of frequency coordinators to process applications.

LMCC is concerned that implementing the *Petition*, with the resultant delays in the ASR process, could unfairly impact competition for frequency licenses because it would not allow companies to license frequencies in the order which they applied for them. The following hypothetical demonstrates the problem: Company A begins the ASR process with the hope of licensing frequency X. Company A's antenna structure goes on public notice and is challenged with a petition to deny, leading to a delay of 51 days before FCC resolution. Two weeks after Company A began the ASR process, Company B begins the process, using a different frequency coordinator that has no knowledge of Company A's application, hoping to receive the same frequency license as Company A. Company B's ASR is put on public notice and unchallenged after 14 days. Company B's ASR is now approved by the

⁷ "2006 Biennial Review," *Wireless Telecommunications Bureau Staff Report*, 22 FCC Rcd. 3006, 3019 (2007).

FCC, and therefore the only candidate to possess the FCC registration number necessary for frequency coordination. Despite having started the process later than Company A, Company B receives a competitive advantage in licensing that frequency by virtue of its ASR going unchallenged during public notice.

B. Temporary Registration Numbers Would Solve Frequency Coordination Overlaps

A simple solution for the problem described above would be to issue a temporary registration number at the beginning of the ASR process. This registration number would allow the frequency coordinators to begin processing the application and to place a temporary “hold” on a frequency until the ASR is completed, placing others on notice that there is a proposed use for this frequency. In order to accomplish this, the Commission can institute the simple process of placing an alphanumeric code in front of the registration number that indicates its status as a pending application. LMCC’s members agree that if the addition of the code did not change the length of the registration number, frequency coordinators could begin use of the code almost immediately with little-to-no software revisions necessary.

Providing a registration number for pending applications would serve as a placeholder for frequency licensees on a first-come, first-served basis as exists today, regardless of the length of the ASR process. If for some reason the registration was denied, the “hold” on the frequency could then be removed, making it available to other applicants. As the FCC would be charged in such a case with

disassociating a temporary registration number from an application, the LMCC requests that the FCC would implement a procedure to do so in 60 days or whatever the FCC determines is a reasonably efficient timeframe after the registration has been denied. The LMCC believes that these simple steps will allow LMCC members and the Commission to process applications in the most rapid and efficient manner possible.⁸

IV. CONCLUSION

The LMCC will work fully and completely with the FCC as it goes through the process of adjusting its procedures to comply with the Court's mandate. The LMCC respectfully requests that, because of the public safety and significant

⁸ The LMCC also requests clarification that any corrections to an application that do not affect the underlying status of the physical location of an antenna structure would not require public notice.

commercial interests at stake, the Commission strive to implement procedures that allow for maximum efficiency in processing radio communications applications through the ASR system.

Respectfully submitted,

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By: /s/ Al Ittner

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